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 10 NICOLE MOSS  
 11 and DISABILITY RIGHTS  
 12 ENFORCEMENT, EDUCATION,  
 13 SERVICES: HELPING YOU  
 14 HELP OTHERS  
 15

16 UNITED STATES DISTRICT COURT

17 NORTHERN DISTRICT OF CALIFORNIA

18 NICOLE MOSS, an individual; and ) **CASE NO. C 06-6356 SBA**  
 19 DISABILITY RIGHTS, ENFORCEMENT, )  
 20 EDUCATION, SERVICES: HELPING ) **JOINT CASE MANAGEMENT**  
 21 YOU HELP OTHERS, a California public ) **STATEMENT AND [PROPOSED] ORDER**  
 22 benefit corporation, )  
 23 Plaintiffs, )  
 24 v. )  
 25 MANILA BAY CUISINE; LAND MARK )  
 26 TOWNE CENTER, LLC., a Delaware )  
 27 limited liability company; AGLOS, LLC., a )  
 28 Delaware limited liability company; )  
 29 DINKY, LLC., a Delaware limited liability )  
 30 company; GF LIBERTY, LLC., a Delaware )  
 31 limited liability company; CRIMSUN INC., )  
 32 a California corporation, )  
 33 Defendants. )

34  
 35 **Date:** **March 5, 2008**  
 36 **Time:** **2:45 PM**  
 37 **Judge:** **Hon. Saundra B. Armstrong**  
 38 **Room:** **Courtroom 3, 3rd Floor**  
 39 **Location:** **1301 Clay Street,**  
 40 **Oakland, California**  
 41 **Telephone:** **(510) 637-3559**

42 The parties to the above-captioned action jointly submit this Case Management  
 43 Statement.

44 **1. JURISDICTION, VENUE & SERVICE**

45 **Jurisdiction:** This Court has jurisdiction of this action pursuant to 28 U.S.C. §1331  
 46 for violations of the Americans with Disabilities Act of 1990, 42 U.S.C. §12101, *et seq.*  
 47 Pursuant to supplemental jurisdiction, attendant and related causes of action, arising from the  
 48 same nucleus of operative facts and arising out of the same transactions, are also brought under

1 parallel California law, whose goals are closely tied with the ADA, including but not limited to  
 2 violations of California Civil Code §51, *et seq.* and § 54, *et seq.*, California Health & Safety  
 3 Code §19955 *et seq.*, including §19959; and Title 24, California Building Standards Code.

4       **Venue:** Venue is proper in this court pursuant to 28 U.S.C. §1331(b) and is founded  
 5 on the facts that the real property which is the subject of this action is located in this district  
 6 at/near San Bruno, California, and that plaintiffs' causes of action arose in this district.

7       **Status of Service of Process:**

8       All parties to the action have been served.

9       **2. BRIEF DESCRIPTION OF CASE/FACTS**

10       This is an action brought by plaintiffs for discrimination based upon the defendants'  
 11 alleged failure to comply with the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C.  
 12 §12101, *et seq.*, the Unruh Civil Rights Act, Cal. Civ. Code §§51 and 51.5, California Health  
 13 & Safety Code §19955, *et seq.*, and the California Disabled Persons Act, Cal. Civ. Code §§54,  
 14 54.1 and 54.3, all of which relate to the denial of access to a place of public accommodation.

15       Plaintiff NICOLE MOSS is a person with a disability. Plaintiff visited MANILA BAY  
 16 CUISINE, a place of public accommodation, on several occasions. While at MANILA BAY  
 17 CUISINE, plaintiff allegedly encountered several architectural barriers to access, including  
 18 lack of proper accessibility signage identifying accessible facilities and accommodations; an  
 19 inaccessible entrance; lack of accessible restroom. Plaintiffs allege that the existence of these  
 20 architectural barriers constitutes violations of plaintiffs' civil rights under federal and state  
 21 law, and caused plaintiff Nicole Moss to suffer actual harm.

22       **3. PRINCIPAL LEGAL ISSUES IN DISPUTE**

23       a.       whether architectural barriers existed and/or continue to exist at MANILA BAY  
 24                    CUISINE which denied access to persons with disabilities;  
 25       b.       whether the removal of architectural barriers was/is readily achievable;

26       ///

27       ///

- 1 c. whether defendants made alterations and modifications to MANILA BAY
- 2 CUISINE which trigger compliance with certain State and federal disability
- 3 access standards; and
- 4 d. whether and to what extent plaintiff NICOLE MOSS suffered actual damages at
- 5 the hands of defendants.

6 **4. MOTIONS**

7 If settlement efforts are unsuccessful, plaintiffs' anticipate bringing a motion for  
8 summary judgment on this issue of defendants' liability.

9 **5. AMENDMENT OF PLEADINGS**

10 None anticipated at this time.

11 **6. EVIDENCE PRESERVATION**

12 No issues anticipated.

13 **7. DISCLOSURES**

14 Plaintiffs mail served their disclosures on May 18, 2007. These disclosures included  
15 identification of known percipient witnesses, and production of receipts from the subject  
16 public accommodation, and pre-filing correspondence from plaintiff NICOLE MOSS to the  
17 owner and operator of MANILA BAY CUISINE.

18 **8. DISCOVERY**

19 Plaintiffs request that the permissible number of interrogatories be increased to fifty  
20 (50) per party. Discovery shall otherwise be conducted pursuant to the limitations set-forth in  
21 the Federal Rules of Civil Procedure.

22 **9. CLASS ACTION**

23 Not Applicable.

24 **10. RELATED CASES**

25 None.

26 **11. RELIEF**

27 Plaintiffs seek injunctive relief to compel defendants to make their public  
28 accommodation accessible pursuant to ADAAG or Title 24, whichever is more restrictive, and

1 to further maintain access in the future. Plaintiffs also seek actual and statutory damages and  
2 attorneys' fees, including litigation expenses and costs.

3 **12. SETTLEMENT/ADR**

4 The ADR process to which the parties jointly request referral is court-sponsored  
5 mediation.

6 **13. MAGISTRATE JUDGE TRIALS**

7 The parties consent to assignment of this case to a United States Magistrate Judge for  
8 trial purposes.

9 **14. OTHER REFERENCES**

10 Not applicable.

11 **15. NARROWING OF ISSUES**

12 Plaintiffs believe that the issue of defendants' liability can be decided on motion to the  
13 Court.

14 **16. EXPEDITED SCHEDULE**

15 Not applicable.

16 **17. SCHEDULING**

17 Disclosure of Expert Witness: June 30, 2008

18 Discovery Cut-off: August 29, 2008

19 Last Day to Hear Motions: October 3, 2008

20 Final Pretrial Conference: October 28, 2008

21 Trial Date: December 2, 2008

22 **18. TRIAL**

23 **Anticipated length of trial:** 4 days

24 **Type of trial:** X jury       court

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1 **19. NON-PARTY INTERESTED PERSONS**

2 The parties are unaware of any non-party interested persons or entities.

3 **20. OTHER MATTERS**

4 None.

5  
6 Dated: February 25, 2008

THOMAS E. FRANKOVICH  
*A PROFESSIONAL LAW CORPORATION*

7  
8 By: \_\_\_\_\_/s/  
9 Thomas E. Frankovich  
10 Attorneys for Plaintiffs NICOLE MOSS and  
DISABILITY RIGHTS ENFORCEMENT,  
EDUCATION SERVICES

11 Dated: February 25, 2008

12 STEYER, LOWENTHAL, BOODROOKAS,  
ALVAREZ & SMITH LLP

13  
14 By: \_\_\_\_\_/s/  
15 Benjamin R. Ehrhart  
16 Attorneys for Defendants LAND MARK TOWNE  
CENTER, LLC., a Delaware limited liability  
company; AGLOS, LLC., a Delaware limited  
liability company; DINKY, LLC., a Delaware  
limited liability company; GF LIBERTY, LLC., a  
17 Delaware limited liability company

18  
19 Dated: February 25, 2008

LAW OFFICES OF NATHAN PACO  
*A PROFESSIONAL LAW CORPORATION*

20  
21 By: \_\_\_\_\_/s/  
22 Nathan Paco  
23 Attorneys for CRIMSUN INC., a California  
corporation

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## CASE MANAGEMENT ORDER

The Case Management Statement and Proposed Order is hereby adopted by the Court as the Case Management Order for the case and the parties are ordered to comply with this Order. In addition the Court orders:

Date: \_\_\_\_\_, 2008

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Saundra B. Armstrong  
UNITED STATES DISTRICT JUDGE